

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred Senate Bill 168, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning the
- 3 attorney general.
- 4 Page 2, after line 1, begin a new paragraph and insert:
- 5 "SECTION 2. IC 24-5-15-2 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) As used in this
- 7 chapter, "credit services organization" means a person that, with respect
- 8 to the extension of credit by another person, sells, provides, performs,
- 9 or represents that the person can or will sell, provide, or perform, in
- 10 return for the payment of money or other valuable consideration, any
- 11 of the following services:
- 12 (1) Improving a buyer's credit record, credit history, or credit
- 13 rating.
- 14 (2) Obtaining an extension of credit for a buyer.
- 15 (3) **Obtaining a delay or forbearance of a buyer's obligation**

under a mortgage.

~~(3)~~ **(4)** Providing advice or assistance to a buyer concerning the services described in subdivision (1), ~~or~~ (2), or ~~both~~ **(3)**.

(b) The term "credit services organization" does not include any of the following:

(1) A person authorized to make loans or extensions of credit under state or federal laws that is subject to regulation and supervision under state or federal laws, or a lender approved by the United States Secretary of Housing and Urban Development for participation in a mortgage insurance program under the federal National Housing Act (12 U.S.C. 1701 et seq.).

(2) A bank or savings association or a subsidiary of a bank or savings association that has deposits or accounts that are eligible for insurance by the Federal Deposit Insurance Corporation.

(3) A credit union doing business in Indiana.

(4) A nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(5) A person licensed as a real estate broker under IC 25-34.1 if the person is acting within the course and scope of the person's license.

(6) A person admitted to the practice of law in Indiana if the person is acting within the course and scope of the person's practice as an attorney.

(7) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of the broker-dealer's regulation.

(8) A consumer reporting agency (as defined in the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)).

SECTION 3. IC 24-5-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. As used in this chapter, "extension of credit" means the right to:

(1) defer payment of debt ~~or offered or granted primarily for personal, family, or household purposes;~~

(2) incur debt and defer payment of the debt offered or granted primarily for personal, family, or household purposes; ~~or~~

(3) delay or avoid foreclosure on a buyer's residence.

SECTION 4. IC 24-5-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The following are

1 deceptive acts:

2 (1) To charge or receive money or other valuable consideration
3 before the complete performance of services that a credit services
4 organization has agreed to perform for or on behalf of a consumer,
5 unless the credit services organization has under section 8 of this
6 chapter:

7 (A) obtained a surety bond issued by a surety company
8 admitted to do business in Indiana; or

9 (B) established an irrevocable letter of credit.

10 (2) To charge or receive money or other valuable consideration to
11 refer a buyer to a retail seller that will or may extend credit to the
12 buyer if the extension of credit is made upon substantially the
13 same terms as those available to the general public.

14 (3) To make or to advise a buyer to make a statement with respect
15 to the buyer's creditworthiness, credit standing, or credit capacity
16 that is:

17 (A) false or misleading; or

18 (B) that should be known by the exercise of reasonable care to
19 be false or misleading;

20 to a consumer reporting agency or to a person that has extended
21 credit to the buyer or to whom the buyer is applying for an
22 extension of credit.

23 (4) To make or use a false or misleading representation in an offer
24 to sell or a sale of the services of a credit services organization,
25 including:

26 (A) guaranteeing to "erase bad credit" or using words to that
27 effect unless the representation clearly discloses that this can
28 be done only if a person's credit history is inaccurate or
29 obsolete;

30 (B) guaranteeing an extension of credit regardless of the
31 buyer's previous credit history unless the representation clearly
32 discloses the eligibility requirements for obtaining the
33 extension of credit; or

34 (C) requiring a buyer to waive a right protected by a state or
35 federal law.

36 **(5) To take a power of attorney from a buyer for any purpose**
37 **other than inspecting documents as provided by law.**

38 SECTION 5. IC 24-5-15-8 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Before doing
2 business in Indiana, a credit services organization must obtain a surety
3 bond in the amount of ~~ten~~ **twenty-five** thousand dollars ~~(\$10,000)~~
4 **(\$25,000)**, issued by a surety company authorized to do business in
5 Indiana in favor of the state for the benefit of a person that is damaged
6 by a violation of this chapter.
7 (b) The attorney general may waive the bonding requirement under
8 subsection (a) and, instead of the bond, accept an irrevocable letter of
9 credit for an equivalent amount issued in favor of the state for the
10 benefit of a person that is damaged by a violation of this chapter."
 (Reference is to SB 168 as printed January 20, 2006.)

and when so amended that said bill do pass.

Representative Ulmer